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From

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To

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David Evans/DC/USEPA/US,

CC

Brian Frazer/DC/USEPA/US@EPA
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BCC

Description

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Subject

Re: Santa Cruz TNW

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07/21/2008 04:49 PM

Contributor

Donna Downing

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Body**Document Body**

Not only good news, but nicely timed news in light of ongoing site visits and discussions regarding the Santa Cruz. Thanks for sharing.

-- Donna

David Evans/DC/USEPA/US

David Evans/DC/USEPA/US

07/21/2008 04:43 PM

To Alexis Strauss/R9/USEPA/US@EPA

cc Brian Frazer/DC/USEPA/US@EPA, Donna
Downing/DC/USEPA/US@EPA

Subject Santa Cruz TNW



Thanks, thanks good news, I had the sense Pima County might be inclined to take a different position on TNW designation for Santa Cruz.,

Dave

David Evans, Director
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Strauss/R9/USEPA/US
07/21/2008 04:03 PM

To David Evans/DC/USEPA/US@EPA
cc
Subject

Board deems river navigable, calls for Public Works review

Tony Davis, Arizona Daily Star
July 19, 2008

The Pima County Board of Supervisors agreed unanimously Friday to support full federal protection and regulation of the Santa Cruz River and many of its tributaries under the Clean Water Act.

The vote puts the board on the side of declaring much of the Santa Cruz navigable, after the U.S. Army Corps of Engineers had first made and then suspended such a declaration this month. Under a Supreme Court ruling, a navigable stream and its significant tributaries get protection under the Clean Water Act.

The board also voted unanimously to conduct an internal review of the county's staff for having written numerous letters and memos saying or suggesting that the staff opposed the navigable ruling.

Board members said the Public Works Department staff overstepped its bounds by not consulting with the board on a key policy.

Supervisors ordered the audit after reviewing hundreds of pages of documents on the issue that the county staff released late this week, in response to a public-records request from the Arizona Daily Star.

"I want to know why they ended up giving comments to the Corps without having us approve those comments," Board Chairman Richard Elías said after the meeting. "I especially think they should not be submitting comments to a federal agency regarding policy for Pima County without having the courtesy to check with us.

"We have to have some answers about how this all took place and make sure it does not happen again."

At stake in this debate is that developers of subdivisions and shopping centers affecting navigable rivers, as well as county road, flood-control and sewer projects near such rivers or tributaries, must get federal permits before they can build.

Board members said they want to protect river environments, wildlife species and habitats. County Administrator Chuck Huckelberry, who will likely conduct the audit, said he expects it will conclude that the staff was trying to do its best and to deliver public-works projects on time. "They were acting from frustration that there was not a clear set of rules from the Corps. They hadn't had an open dialogue; they felt the Corps officials basically were saying, 'We made a determination and that is our decision, period,' " Huckelberry said.

John Bernal, deputy county administrator for public works, said the staff hadn't decided whether to appeal the Corps decisions on the Santa Cruz's navigability and how the rules for a major road project would be affected by that decision. Until that point, there was nothing to tell the Board of Supervisors, he said.

At Friday's meeting, the supervisors urged a much more sweeping federal decision for the Santa Cruz to be declared navigable from the Nogales area to the Pinal County line, including many dry areas than the Corps had originally made. The original ruling would have protected only two stretches of river containing treated sewage effluent: from Tubac to Continental and from the Roger Road sewage plant to the county line.

The lack of protection could mean more subdivisions creeping into sensitive wildlife habitat and more bridges built without thought of their effect on the rivers, environmentalists say.

In the long run, they say, the biggest casualty could be the county's nationally recognized, land-saving Sonoran Desert Conservation Plan.

The plan was designed to protect endangered species, but unless road and other projects need a federal permit under the Clean Water Act, the federal government has no legal clout to protect species against local development.

But this protection carries a cost: \$70 million to design 13 pending roads, bridges, sewer lines, and flood control channels so they don't harm rivers, according to a county Department of Transportation memo.

In other memos, staff members directly challenged the scientific arguments the Corps originally used to justify calling the Santa Cruz navigable.

The county memos cited delays and higher costs regulation would have on their projects, and what staffers felt were delays by the Corps in making key decisions, and conflicting and confusing decisions on others.

Some of the memos appear to contradict a statement by Huckelberry last week that the county staffers were pushing primarily to get any Corps decision after lengthy delays not to get a decision limiting regulation.

But on Friday, Huckelberry stuck to his previous position, adding that he believes the staff's comments stem from the Corps' failure to apply their rules consistently. Across Arizona, "in case after case after case" involving other rivers, the Corps has said the closest navigable river is the Colorado, he said.

Environmentalist Matt Skroch, director of the Sky Island Alliance, said he is concerned because Huckelberry has already said how he believes the county audit will likely turn out.

"I think the most important thing about initiating a review such as this is that you go into it without assumptions or preconceptions about what the conclusion will be," said Skroch. "You follow the facts."

[Back to the Table of Contents](#)

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